

CITY OF OAKLAND



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Christopher Calfee, Senior Counsel
Governor's Office of Planning and Research
1400 10th Street
Sacramento, CA 95812

Subject: City of Oakland Comments on Preliminary Discussion Draft of Updates to the CEQA Guidelines Implementing Senate Bill 743

Dear Mr. Calfee,

Senate Bill 743 is a major step forward in the analysis of transportation impacts under CEQA. The bill is critical to meeting statewide goals related to affordable housing, economic growth, and environmental stewardship. Yet, while SB743 establishes a framework for positive change, its ultimate success rests on the work of the Office of Planning and Research (OPR) to develop new CEQA Guidelines.

As such, the City of Oakland appreciates the opportunity to comment on the "Preliminary Discussion Draft of Updates to the CEQA Guidelines Implementing Senate Bill 743" (Draft Guidelines) published by OPR in August 2014, and we look forward to continuing to work with OPR as the new CEQA Guidelines are finalized.

The Draft Guidelines represent an excellent first step toward an effective replacement for LOS. The City of Oakland has long recognized the flaws inherent with applying LOS to evaluate transportation impacts in urban settings, and OPR provides a thoughtful and comprehensive approach to address these issues. With that in mind, we offer the following comments and suggestions on the Draft Guidelines to ease implementation and avoid unintended consequences:

1. The inclusion of "Local Safety" within Appendix G of the CEQA Guidelines and/or the criteria for analyzing transportation impacts is appropriate, as impacts to human safety are part of CEQA review. However, we suggest removing the list of example objective factors in order to avoid the perception that (1) these are the only factors that

affect local safety and (2) that each of the listed factors will apply to all projects regardless of context.

The factors affecting transportation safety are numerous and nuanced, and thus not well-suited for enumeration within the CEQA Guidelines. Instead, deference should be given to lead agencies to perform safety analysis of projects, consistent with current practice.

At a minimum, we strongly suggest removing the language regarding speed differentials between adjacent travel lanes, due to the potential for unintended consequences. Speed differentials of greater than 15mph occur routinely on urban streets (e.g., parallel parking maneuvers) and do not necessarily reduce safety.

2. We applaud the selection of Vehicle Miles Traveled (VMT) as the primary metric for evaluating transportation impacts under CEQA. VMT is not only a better measure of environmental impacts than LOS; it is also more equitable. LOS measures the delay to vehicles not people. A bus carrying 40 passengers receives the same weight as a car carrying one, and people walking and bicycling are not counted at all. Conventional transportation analysis using LOS largely ignores the needs of non-drivers (whether due to age, disability, cost or other reasons). Conversely, mitigations that reduce per capita VMT will improve the overall transportation system, and give all Californians better, more affordable transportation choices

However, we do not believe that a sole reliance on regional average VMT will provide and appropriate significance threshold for most projects. A single threshold is not applicable across the wide variation in land use context found in large metropolitan areas, or even within individual jurisdictions. Moreover, local jurisdictions and regions that wish to perform more robust analysis to determine locally-driven VMT thresholds should be allowed to do so.

As such, we suggest that OPR delegate to the MPOs or RTPAs decisions about how finely to define thresholds, and allow them to set thresholds higher and lower than the regional average. An alternative to delegating this authority to regional agencies (which may not be within OPR's purview), is to provide a non-exhaustive list of methods by which lead agencies might set VMT thresholds of significance. In addition to regional average, other methods might include sub-regional averages (e.g., County-wide average in multi-county metropolitan areas), consistency with local land use plans, and contribution to locally-established VMT goals.

3. The distinction between transit-served projects and non-transit-served projects in the implementation timeframe introduces unnecessary challenges and complexity. First, it provides insufficient time for lead agencies to develop procedures to implement the new Guidelines before they are applied to transit-served areas. Second, it creates a short time-period during which two sets of rules will be in place (depending on proximity to transit), after which all projects will be subject to the same criteria regardless of location. We suggest the following principles for applicability:

- Remove the distinction that applies the new Guidelines immediately to transit-served areas upon filing.
 - Establish a single deadline for applying the new Guidelines statewide. The deadline should occur a minimum of 12 months after filing the new section to allow sufficient preparation time for lead agencies.
 - Allow lead agencies to elect to be governed by the new Guidelines in advance of the deadline (as the Draft Guidelines currently allow).
4. Consider removing the list of potential mitigation measures and project alternatives in Appendix F. The inclusion of an explicit list creates the presumption that each of the measures listed should be analyzed for any project with a potentially significant impact. And, if impacts are found significant and unavoidable, and a Statement of Overriding Considerations is adopted, then each of these measures would have to be rejected as infeasible, based upon substantial evidence. This creates more, rather than less, CEQA-related work (and greater opportunities for possible legal challenges).
 5. Subsection (b)(2) states that “Transportation projects (including lane priority for transit, bicycle and pedestrians projects) that lead to **decreases** in vehicle miles traveled, compared to existing conditions, may also be considered to have a less than significant impact [emphasis added]”. The sentence should be amended to include projects that result in no net change in VMT (i.e., only projects that increase VMT may cause a significant impact based on the VMT criterion).
 6. Sub-section (b)(1) references land use plan consistency with sustainable communities strategy (SCS). Further clarification on what constitutes consistency with an SCS is desirable, given the challenge of comparing local land use patterns to high-level regional documents that lack detail at the local level.
 7. Sub-section (b) should explicitly state that already approved projects do not require additional CEQA review, except as necessary under other sections of the CEQA Statute and Guidelines.
 8. Sub-section (b)(2) references consistency with “transportation projects in a Regional Transportation Plan and Sustainable Communities Strategy”. We suggest changing “and” to “or” to include projects that may be in only one of these documents.
 9. “Transportation projects” should be defined in (b)(2) to avoid ambiguity (as many projects include both transportation and non-transportation components).
 10. Where possible, OPR should remove “generally”, “may” and other similar terms from the Guidelines to increase clarity.
 11. Clarify that the term “VMT” is intended to mean “per capita VMT” when analyzing transportation impacts.

Again, your Draft Guidelines are an important step on the path toward reforming transportation analysis under CEQA. We appreciate your consideration of our comments, and look forward to working with OPR on SB743 implementation.

Thank you for your leadership on this important issue. If you have any questions or would like to discuss these comments further, please contact Jamie Parks, jparks@oaklandnet.com or 510.238.6613.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Darin Ranelletti', with a stylized flourish at the end.

Darin Ranelletti
Deputy Director/Environmental Review Officer